

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

IN RE:

NICHOLAS K. GAKIO, AKA NICHOLAS
KIMANI GAIKO

Case No. 16-12652-BFK
(Chapter 7)

Debtor

NATIONSTAR MORTGAGE LLC
NATIONSTAR MORTGAGE LLC
PO BOX 619094
DALLAS TX 75261-9741

Plaintiff

v.

NICHOLAS K. GAKIO, AKA NICHOLAS
KIMANI GAIKO
15334 HARRISON HILL LANE
LEESBURG, VA 20176
(Debtor)

DONALD F. KING
1775 WIEHLE AVENUE, SUITE 400
RESTON, VA 20190 (Trustee)

Defendants

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Nationstar Mortgage LLC (“Nationstar”), by undersigned counsel, respectfully moves this Honorable Court to terminate the Automatic Stay and, as grounds therefore, states as follows:

Kathryn E. Smits, Bar #77337
ksmits@atlanticlawgrp.com
Sameera Navidi, Bar #89441
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Atlantic Law Group, LLC
PO Box 2548
Leesburg, VA 20177
(703) 777-7101

1. This proceeding seeking relief under Section 362 of the U.S. Bankruptcy Code is a contested matter within the meaning of 9014 and 4001 of the Federal Rules of Bankruptcy Procedure, and this court has jurisdiction over this matter pursuant to 28 U.S.C. Section 157.

2. On July 31, 2016, the above named debtor, Nicholas K. Gakio, AKA Nicholas Kimani Gaiko ("Debtor"), filed in this court a Petition under Chapter 7 of the United States Bankruptcy Code. Donald F. King was appointed Chapter 7 Trustee.

3. On or about October 14, 2011, the Debtor and executed and delivered to Nationstar Mortgage LLC a Note in the amount of THREE HUNDRED THIRTY-NINE THOUSAND EIGHT HUNDRED SIXTY-FIVE AND 00/100 dollars (\$339,865.00), plus interest at the adjustable rate of 3.500% per annum to be paid over (15) years. A copy of the Note is attached as Exhibit "A" and incorporated herein.

4. To secure the repayment of the sums due under the Note, the Debtors and Seraphine W. Gichiru (Obligors) executed and delivered to Nationstar Mortgage LLC a Deed of Trust dated October 14, 2011 encumbering the real property ("Property") described as: Beginning at a point on the northerly right of way of Hibler Road, Route 656, width varies, being 25.00 feet northerly from centerline and being on the easterly line of the property now or formerly of Cannon; thence departing Hibler road and running with said line of Canon N 07 DEG. 20' 49" W 316.86 feet to a point; thence continuing with said Cannon N 01 Deg. 57' 21" E 407.73 Feet to a point, thence departing Cannon and running with the southerly line of the property now or formerly of Kraay; N 80 Deg. 42' 59" E 435.24 Feet to a point, thence departing Fraay and running with the westerly line of parcel 11B" of the property of Harrison as subdivided In Deed Book 1533 at Page 1925 S01 Deg. 38' 43" W 359.75 to a point; thence S 42 Deg. 22' 49" W 92.45 feet to a point; thence S 11 Deg. 20' 41" E 266.99 Feet to a point on said

right of way of Hibler road; thence departing said Parcel "B" and running with Hibler Road S 78 Deg. 30' 19" W 393.71 Feet to the point of beginning, containing 282,551 square feet or 6.48648 acres, more or less.

which has the address of 15334 Harrison Hill Lane, Leesburg, VA 20176. A copy of the Deed of Trust is attached as Exhibit "B" and incorporated herein.

5. The Deed of Trust and Note were later transferred to Nationstar and Nationstar is the holder of the Deed of Trust and Note.

6. As of November 2, 2016, the Debtor owes an unpaid principal balance of \$265,019.25 under the Note, plus additional accruing interest, late charges, attorneys' fees and costs.

7. As of November 2, 2016, the Debtor are contractually due for December 1, 2015, which includes the following missed payments pre and post-petition:

Periodic Payments in Arrears	Number of Missed Payments	From	To	Payment Amount	Total Due
Pre - Petition Payments	8	12/01/2015	07/01/2016	\$2,851.13	\$22,809.04
Post-Petition Payments	2	8/1/2016	9/01/2016	\$2,851.13	\$5,702.26
Post - Petition Payments	2	10/01/2016	11/01/2016	\$2,857.74	\$5,715.48
Suspense:					\$- 668.79
Total Payments Past Due					\$33,557.99

8. The Debtor failed to make the contractual payments due under the Note for 8 months and is in arrears for a total amount of \$33,557.99, plus additional late charges, attorneys' fees and costs, and there remains an unpaid principal balance of \$265,019.25.

9. The scheduled market value of the Property is \$260,000.00.
10. The Debtor is in default under the Note.
11. The Debtor has not and cannot offer Nationstar any adequate protection of its interest in the Property, and Nationstar avers it is not adequately protected.
12. The Property is not necessary for an effective reorganization, as there is little or no equity in the Property.
13. Cause exists to terminate the Automatic Stay.
- 14. THE DEADLINE TO FILE A RESPONSE TO THIS MOTION FOR RELIEF FROM THE AUTOMATIC STAY IS FOURTEEN (14) DAYS AFTER SERVICE OF THIS MOTION, WHICH IS THE DATE SHOWN ON THE CERTIFICATE OF SERVICE.**

WHEREFORE, the premises considered, Nationstar respectfully requests that this Court enter an Order terminating the Automatic Stay so Nationstar may exercise its legal rights under applicable law as to the Property, including but not limited to foreclosure against the Property under the Deed of Trust, and for such other and further relief as this court deems just and proper.

Respectfully submitted,

/s/ Sameera Navidi

Sameera Navidi, Bar# 89441
snavidi@atlanticlawgrp.com
Atlantic Law Group, LLC
PO Box 2548
Leesburg, VA 20177
(703) 777-7101

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Motion for Relief from Automatic Stay were mailed by first class mail, postage-paid, and served electronically, where applicable, this 28th day of November, 2016 to the following parties:

Nicholas K. Gakio, AKA Nicholas Kimani Gaiko
15334 Harrison Hill Lane
Leesburg, VA 20176
Debtor
Via first class mail

John C. Morgan, Jr.
New Day Legal, PLLC
98 Alexandria Pike, Suite 10
Warrenton, VA 20186
Via first class mail and electronic

Donald F. King, Trustee
1775 Wiehle Avenue, Suite 400
Reston, VA 20190
Via first class mail and electronic

/s/ Sameera Navidi
Sameera Navidi, Esquire